

WILLIAMSBURG BOARD OF ZONING APPEALS MINUTES

January 4, 2005

The regular meeting of the Williamsburg Board of Zoning Appeals was held on Tuesday, January 4, 2005 at 4:00 p.m. in the Williamsburg Municipal Building, 401 Lafayette Street.

ATTENDANCE

Present were Board members Knudson, Kafes, Lamson and White. Absent was Board member Carr. Staff members present were Zoning Administrator Murphy and Secretary Scott.

CALL TO ORDER and MINUTES

Chairman Knudson called the meeting to order. Mrs. Knudson moved that the minutes of the November 2, 2004 meeting be approved as submitted. Mr. Lamson seconded the motion which carried by roll call vote.

PUBLIC HEARINGS

BZA #05-003: Request of George & Toronto for a special exception from Section 21-705.1 of the Zoning Ordinance to increase the maximum amount of front yard parking coverage from 30% to 42% and the total parking lot coverage from 15% to 20% as shown on a plan designed by Williams Landscape & Design. The property is located at 804 Jamestown Road, Williamsburg Tax Map Number 494-(01)-00-005, 6 and is zoned Single-Family Dwelling District RS-2. Approved.

Chairman Knudson introduced the request for a special exception and noted the following BZA members have visited the site:

Knudson, Kafes, Lamson and White

Mrs. Knudson asked for comments from the applicant.

Owner Teresa George, stated that the B & B is a small one with inadequate and unsafe parking accommodations. In supporting her request, Mrs. George said the proposed plan calls for paving 42% of the front yard which would allow safe entrance and exit from the property and adequate parking for both the owners and the guests. She noted that backing out onto Jamestown Road is very hazardous with vehicular and pedestrian traffic, and there is no on-street parking available adjacent to the property.

There being no questions from the Board, Chairman Knudson opened the public hearing.

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There being no comment the public hearing was closed.

Having made the site visit, Mrs. White confirmed that this site definitely presents health and safety issues. She said she can personally attest to the dangerous maneuvering necessary to exit into the flow of traffic.

On the motion of Mr. Kafes, seconded by Mr. Lamson, and carried by a vote of 4-0, the following resolution was **adopted**:

WHEREAS, George & Toronto have submitted application **BZA #05-003** requesting a special exception from Section 21-705.1 of the Zoning Ordinance to increase the maximum amount of front yard parking coverage from 30% to 42% and the total parking lot coverage from 15% to 20% as shown on a plan designed by Williams Landscape & Design; and

WHEREAS, the property is located at 804 Jamestown Road, Williamsburg Tax Map Number 494-(01)-00-005,6 and is zoned Single Family Dwelling District RS-2; and

WHEREAS, the City of Williamsburg Board of Zoning Appeals conducted a public hearing on this request on January 4, 2005; and

WHEREAS, after careful consideration of the pertinent issues subsequent to the public hearing, the Board has determined the following:

- (a) A hardship **would** result from the denial of the special exception resulting in an ungainly and unsafe entrance and exit scheme;
- (b) It **is** designated, constructed and operated to adequately safeguard the health, safety and welfare of the occupants of the adjoining and surrounding property;
- (c) It **does not** unreasonably impair an adequate supply of light and air to adjacent property;
- (d) It **does not** increase public danger from fire or otherwise unreasonably restrict public safety;
- (e) It **does not** impair the established property values in surrounding areas.

NOW, THEREFORE, BE IT RESOLVED by the City of Williamsburg Board of Zoning Appeals on this the 4th day of January 2005 that the request of George and Toronto to increase the maximum amount of front yard parking coverage from 30% to 42% and the total parking lot coverage from 15% to 20% as shown on a plan designed by Williams Landscape & Design **is hereby approved subject to substantial compliance to the satisfaction of the Zoning Administrator with the landscape and design scheme prepared by Williams Landscape and Design dated 11/16/04, a copy of which is ordered to be included with the records of this meeting.**

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Recorded vote on the motion:

Aye: White, Knudson, Kafes, Lamson
No: None
Absent: Carr

BZA #05-004: Request of Parkway Partners, LLC for a variance from Section 21-218 of the Zoning Ordinance to increase the maximum height from 35 feet to 40 feet for a proposed condominium building. The properties are located at 222 Parkway Drive and 300 Third Street, Williamsburg Tax Map Numbers 438-(08)-22-001>12* 438-(08)-31-015A* and are zoned Multi-Family Dwelling District RM-2. Denied.

Chairman Knudson introduced the request for a variance and noted the following BZA members have visited the site:

Knudson, Kafes, Lamson and White

Mrs. Knudson asked for comments from the applicant.

Project developer, Ditlef Olsen of Parkway Partners, L.L.C. stated that the plans were approved about one year ago with a 35' height limit. However, they have been less than happy with the unit layout, particularly the height restriction, and are requesting approval of the additional 5' to allow 9' ceilings in the units rather than only 8 feet. Mr. Olsen distributed a letter of additional comments regarding the request and noted that among the suggestions they received from their design consultant were an increase in ceiling height and roofline modification. He concluded his remarks by stating that his desire is to create the best possible product for everyone including the neighbors, the buyer and the City and hopes the Board will approve the request.

Comments from Board members include:

- Although there is no age restriction on the units, leases are restricted to 15%.
- Could an architectural change be made to the roofline which would allow the height to remain at 35'? It was suggested that this could be accomplished by either a flat roof or a two-story structure.

Mr. Olsen stated that not only does he prefer this type of roof versus the flat roof, but it is a better design for waterproofing. He added that they are willing to look at some additional landscaping screening on the west side.

There being no additional questions from the Board Chairman Knudson opened the public hearing.

John Kapp, 420 Zelkova Road, Wyndham subdivision, introduced himself and noted that he is a retired mayor and planning commission member from another jurisdiction. He spoke in opposition to the request, noting that it meets none of the requirements for approval.

Russ Hannula and Mrs. Hannula, 401 Zelkova Road, spoke in opposition to the request and showed copies of the August 2003 City Council rezoning approval and the July 2003 letter from Richard Costello from AES Consulting Engineers In which it is stated that the overall building height is a design constraint with this project. He also noted that the Architectural Review Board, in their March 2004 minutes, stressed the building will have to meet the 35' height requirement. Mr. Hannula said that an incomplete proposal was taken to City Council and when Councilman Haulman expressed concern regarding the 35' height restriction, Mr. Costello assured Council the requirement would be met. Mr. Hannula concluded his comments by asking whether the initial planning was incomplete, or was City Council mislead about the developer's intentions. He stated that the developer needs to fulfill his commitment.

Dan Smith, superintendent of the Colonial National Historical Park, introduced Tom Nash, chief ranger, and stated that the project is adjacent to Colonial Parkway which is on the *List of Significant Historical Places*. He asked that the Board deny the proposed building height increase.

Cathy Short, 432 Zelkova Road, stated that she had originally spoken against approval of the project due to the increase in traffic that will probably be generated and the impact on adjacent Pinecrest residents. She agreed with Mr. Hannula's assessment of the proposal being incomplete, and noted the Pinecrest neighborhood is in the process of coming back. Mrs. Short stated that she thinks the proposal may end up being even more than 5' higher, and the additional trees will not do an adequate job of screening. She concluded by saying AES Consulting Engineers is a professional organization and can make the necessary adjustments to conform to the previously approved plans. Mrs. Short asked the Board to deny the request.

Alan Smith, 11 Grove Avenue, said his property backs up to the project and although he is not opposed to the land being developed, he believes this particular project is not the appropriate use due to the impact on the adjacent neighborhood.

There being no additional comment the public hearing was closed.

Board members' comments included:

- The building can be designed to meet the 35' height restriction, no hardship is demonstrated.
- Additional height would be a substantial detriment to adjacent property.
- Sympathy was expressed because roofline design is difficult, but the required demonstration of a hardship is not present.
- Although, as the applicant notes, a number of previous applicants have received approval of height variances, this Board has consistently been more restrictive in the requirements for new construction versus existing structures.

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On the motion of Mr. Kafes, seconded by Mr. Lamson, and which carried by a vote of 4-0, the following resolution was adopted:

WHEREAS, **Parkway Partners, LLC** have submitted application **BZA #05-004** requesting a variance from Section 21-218 of the Zoning Ordinance to increase the maximum height from 35 feet to 40 feet; and

WHEREAS, the properties are located at 222 Parkway Drive and 300 Third Street, Williamsburg Tax Map Number 438-(08)-22-001>12*; 438-(08)-31-015A* and are zoned Multi-Family Dwelling District RM-2; and

WHEREAS, the City of Williamsburg Board of Zoning Appeals conducted a public hearing on this request on January 4, 2005; and

WHEREAS, after careful consideration of the pertinent issues subsequent to the public hearing, the Board has determined that a variance cannot be authorized because the request does not comply with Section 21-97 of the Zoning Ordinance because the Board finds:

1. That the strict application of this chapter **would not produce** an undue hardship.
2. That the authorization of such variance **would be of substantial detriment** to adjacent property and that the character of the district would be changed by the granting of the variance.

NOW, THEREFORE, BE IT RESOLVED by the City of Williamsburg Board of Zoning Appeals on this the 4th day of January 2005 that the request of Parkway Partners, LLC for a variance from the 35-foot height requirement of the Zoning Ordinance to 40-feet, **is hereby denied**.

Recorded vote on the motion:

Aye: White, Knudson, Kafes, Lamson
No: None
Absent: Carr

OLD BUSINESS – none

NEW BUSINESS

Annual Report 2004

The Annual Report 2004 was distributed to the Board members.

Rules and Procedures

Mr. Kafes moved that *The Rules and Procedures* for the Board of Zoning Appeals be revised to reflect the change in meeting time from 3:00 p.m. to 4:00 p.m. Mr. Lamson seconded the motion which carried by roll call vote of 4-0.

Election of Officers

Chairman Knudson asked for nominations for the slate of officers for 2005. Mr. Kafes nominated Elizabeth White for chairman, David Lamson for vice chairman, and William Carr for secretary. Mrs. White declined her nomination for chairman. Mr. Kafes withdrew the slate of officers and nominated Judy Knudson for chairman, Elizabeth White for vice chairman and David Lamson for secretary. The revised slate of nominees was approved by the Board.

Recorded vote on the motion:

Aye: White, Knudson, Kafes, Lamson
No: None
Absent: Carr

OTHER

BZA Member Training

Having recently completed the *Virginia Certified Boards of Zoning Appeals Program*, Mr. Lamson suggested that attendance at the training program be required for Board members and that it be completed within 12 or 18 months of their appointment to the Board. Currently the program is only recommended. Mr. Lamson said he found the program to be an incredible learning process. Mr. Kafes noted that some members of the Board already have extensive knowledge in the areas presented for decision and the training would be redundant. In addition, the time required for the training program would be difficult to manage for some members. It was suggested that the City Attorney might present an orientation of laws and requirements for new Board members. Mr. Lamson agreed that some sort of formal introduction would be appropriate and helpful. Chairman Knudson requested staff look into such an orientation.

There being no further business the meeting adjourned at 4:45 p.m.

Respectfully submitted,

Judith Knudson, Chairman
Board of Zoning Appeals